

**TEMPORARY REPLACEMENT FOR COUNTY ELECTED
OFFICIALS**

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Val K. Potter

Senate Sponsor: _____

LONG TITLE

General Description:

This bill provides for a temporary manager to fulfill the duties of a vacant county office until the county legislative body appoints an interim replacement.

Highlighted Provisions:

This bill:

- provides for a temporary manager to fulfill the duties of a vacant county office until the county legislative body appoints an interim replacement;
- imposes limitations on the temporary manager's authority; and
- allows the county legislative body to remove a temporary manager and appoint a replacement temporary manager under certain circumstances.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-508, as last amended by Laws of Utah 2017, Chapter 54

Be it enacted by the Legislature of the state of Utah:



Section 1. Section **20A-1-508** is amended to read:

20A-1-508. Midterm vacancies in county elected offices.

(1) As used in this section:

(a) (i) "County offices" includes the county executive, members of the county legislative body, the county treasurer, the county sheriff, the county clerk, the county auditor, the county recorder, the county surveyor, and the county assessor.

(ii) "County offices" does not ~~[mean the offices of president and vice president of the United States, United States senators and representatives, members of the Utah Legislature, state constitutional officers, county attorneys, district attorneys, and judges]~~ include the office of county attorney, district attorney, or judge.

(b) "Party liaison" means the political party officer designated to serve as a liaison with each county legislative body on all matters relating to the political party's relationship with a county as required by Section **20A-8-401**.

(2) (a) Until a county legislative body appoints an interim replacement to fill a vacant county office under Subsection (4), the following shall temporarily fill the county office as a temporary manager:

(i) for a county office with one chief deputy, the chief deputy;

(ii) for a county office with more than one chief deputy:

(A) the chief deputy with the most cumulative time served as a chief deputy for the county office; or

(B) notwithstanding Subsection (2)(a)(ii)(A), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's chief deputies to discharge the duties of the county office in the event of the county officer's extended absence, disability, or vacation of the office, the designated chief deputy; or

(iii) for a county office without a chief deputy:

(A) if one management-level employee serving under the county office has a higher-seniority management level than any other employee serving under the county office, that management-level employee;

(B) if two or more management-level employees serving under the county office have the same and highest-seniority management level, the highest-seniority management-level

employee with the most cumulative time served in the employee's current position; or
(C) notwithstanding Subsection (2)(a)(iii)(A) or (B), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's employees to discharge the county officer's duties in the event of the county officer's extended absence, disability, or vacation of the office, the designated employee.

(b) Except as provided in Subsection (2)(c), a temporary manager described in Subsection (2)(a) or appointed under Subsection (3)(b) who temporarily fills a county office holds the powers and duties of the county office until the county legislative body appoints an interim replacement under Subsection (4).

(c) The temporary manager described in Subsection (2)(a), or appointed under Subsection (3)(b), who temporarily fills a county office:

(i) may not take an oath of office for the county office as a temporary manager;

(ii) shall comply with Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, and the county's budget ordinances and policies;

(iii) may not change the compensation of an employee unless approved by the county legislative body;

(iv) unless approved by the county legislative body, may not promote or demote an employee or change an employee's job title;

(v) may terminate an employee only if the termination is conducted in accordance with:

(A) personnel rules described in Subsection 17-33-5(3) that are approved by the county legislative body; and

(B) applicable law;

(vi) unless approved by the county legislative body, may not exceed by more than 5% an expenditure that was planned before the county office that the temporary manager fills was vacated;

(vii) except as provided in Subsection (2)(c)(viii), may not receive a change in title or compensation; and

(viii) if approved by the county legislative body, may receive a performance award after:

(A) the county legislative body appoints an interim replacement under Subsection (4);

90 and

91 (B) the interim replacement is sworn into office.

92 (3) (a) The county legislative body may remove a temporary manager described in
93 Subsection (2)(a)(ii) or (iii) from the temporary manager position if the county legislative body:

94 (i) finds that the temporary manager is unavailable or is not fit to act as a temporary
95 manager; and

96 (ii) votes unanimously to remove the temporary manager from the temporary manager
97 position.

98 (b) If the county legislative body removes a temporary manager under Subsection
99 (3)(a), the county legislative body shall immediately appoint another county officer or
100 employee to fill the vacant office as a temporary manager until the county legislative body
101 appoints an interim replacement under Subsection (4).

102 ~~[(2)]~~ (4) (a) Until a replacement is selected as provided in this section and has
103 qualified, the county legislative body shall appoint an interim replacement to fill the vacant
104 office by following the procedures and requirements of this Subsection ~~[(2)]~~ (4).

105 (b) (i) To appoint an interim replacement, the county legislative body shall give notice
106 of the vacancy to the party liaison of the same political party of the prior office holder and
107 invite that party liaison to submit the name of a person to fill the vacancy.

108 (ii) That party liaison shall, within 30 days, submit the name of the person selected in
109 accordance with the party constitution or bylaws as described in Section 20A-8-401 for the
110 interim replacement to the county legislative body.

111 (iii) The county legislative body shall no later than five days after the day on which a
112 party liaison submits the name of the person for the interim replacement appoint the person to
113 serve out the unexpired term.

114 (c) (i) If the county legislative body fails to appoint an interim replacement to fill the
115 vacancy in accordance with Subsection ~~[(2)]~~ (4)(b)(iii), the county clerk shall send to the
116 governor a letter that:

117 (A) informs the governor that the county legislative body has failed to appoint a
118 replacement within the statutory time period; and

119 (B) contains the name of the person to fill the vacancy submitted by the party liaison.

120 (ii) The governor shall appoint the person named by the party liaison as an interim

121 replacement to fill the vacancy within 30 days after receipt of the letter.

122 (d) A person appointed as interim replacement under this Subsection [~~(2)~~] (4) shall
123 hold office until their successor is elected and has qualified.

124 [~~(3)~~] (5) (a) The requirements of this Subsection [~~(3)~~] (5) apply to all county offices
125 that become vacant if:

126 (i) the vacant office has an unexpired term of two years or more; and

127 (ii) the vacancy occurs after the election at which the person was elected but before
128 April 10 of the next even-numbered year.

129 (b) (i) When the conditions established in Subsection [~~(3)~~] (5)(a) are met, the county
130 clerk shall notify the public and each registered political party that the vacancy exists.

131 (ii) An individual intending to become a candidate for the vacant office shall file a
132 declaration of candidacy in accordance with:

133 (A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

134 (B) for a county commission office, Subsection 17-52-501(6) or 17-52-502(6), if
135 applicable.

136 (iii) An individual who is nominated as a party candidate for the vacant office or
137 qualified as an independent or write-in candidate under Chapter 8, Political Party Formation
138 and Procedures, for the vacant office shall run in the regular general election.

139 [~~(4)~~] (6) (a) The requirements of this Subsection [~~(4)~~] (6) apply to all county offices
140 that become vacant if:

141 (i) the vacant office has an unexpired term of two years or more; and

142 (ii) the vacancy occurs after April 9 of the next even-numbered year but more than 75
143 days before the regular primary election.

144 (b) (i) When the conditions established in Subsection [~~(4)~~] (6)(a) are met, the county
145 clerk shall notify the public and each registered political party that:

146 (A) the vacancy exists; and

147 (B) identifies the date and time by which a person interested in becoming a candidate
148 shall file a declaration of candidacy.

149 (ii) An individual intending to become a candidate for a vacant office shall, within five
150 days after the date that the notice is made, ending at the close of normal office hours on the
151 fifth day, file a declaration of candidacy for the vacant office in accordance with:

152 (A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and
153 (B) for a county commission office, Subsection 17-52-501(6) or 17-52-502(6), if
154 applicable.

155 (iii) The county central committee of each party shall:

156 (A) select a candidate or candidates from among those qualified candidates who have
157 filed declarations of candidacy; and

158 (B) certify the name of the candidate or candidates to the county clerk at least 60 days
159 before the regular primary election.

160 ~~[(5)]~~ (7) (a) The requirements of this Subsection ~~[(5)]~~ (7) apply to all county offices
161 that become vacant:

162 (i) if the vacant office has an unexpired term of two years or more; and

163 (ii) when 75 days or less remain before the regular primary election but more than 65
164 days remain before the regular general election.

165 (b) When the conditions established in Subsection ~~[(5)]~~ (7)(a) are met, the county
166 central committees of each political party registered under this title that wishes to submit a
167 candidate for the office shall summarily certify the name of one candidate to the county clerk
168 for placement on the regular general election ballot.

169 ~~[(6)]~~ (8) (a) The requirements of this Subsection ~~[(6)]~~ (8) apply to all county offices
170 that become vacant:

171 (i) if the vacant office has an unexpired term of less than two years; or

172 (ii) if the vacant office has an unexpired term of two years or more but 65 days or less
173 remain before the next regular general election.

174 (b) (i) When the conditions established in Subsection ~~[(6)]~~ (8)(a) are met, the county
175 legislative body shall give notice of the vacancy to the party liaison of the same political party
176 as the prior office holder and invite that party liaison to submit the name of a person to fill the
177 vacancy.

178 (ii) That party liaison shall, within 30 days, submit the name of the person to fill the
179 vacancy to the county legislative body.

180 (iii) The county legislative body shall no later than five days after the day on which a
181 party liaison submits the name of the person to fill the vacancy appoint the person to serve out
182 the unexpired term.

(c) (i) If the county legislative body fails to appoint a person to fill the vacancy in accordance with Subsection ~~[(6)]~~ (8)(b)(iii), the county clerk shall send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint a person to fill the vacancy within the statutory time period; and

(B) contains the name of the person to fill the vacancy submitted by the party liaison.

(ii) The governor shall appoint the person named by the party liaison to fill the vacancy within 30 days after receipt of the letter.

(d) A person appointed to fill the vacancy under this Subsection ~~[(6)]~~ (8) shall hold office until their successor is elected and has qualified.

~~[(7)]~~ (9) Except as otherwise provided by law, the county legislative body may appoint replacements to fill all vacancies that occur in those offices filled by appointment of the county legislative body.

~~[(8)]~~ (10) Nothing in this section prevents or prohibits independent candidates from filing a declaration of candidacy for the office within the same time limits.

~~[(9)]~~ (11) (a) Each person elected under Subsection ~~[(3), (4), or (5), (6), or (7)]~~ to fill a vacancy in a county office shall serve for the remainder of the unexpired term of the person who created the vacancy and until a successor is elected and qualified.

(b) Nothing in this section may be construed to contradict or alter the provisions of Section [17-16-6](#).

Legislative Review Note
Office of Legislative Research and General Counsel